

§ 2.172

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Branch, and divide out the assigned goods/services from the registered extension of protection (parent registration), issue an updated certificate for the parent registration, and publish notice of the parent registration in the *Official Gazette*.

(ii) The Office will create a new registration number for the child registration, and enter the information about the new registration in its automated records. The Office will notify the new owner that the new owner must pay the fee required by § 2.6 to obtain a new registration certificate for the child registration. It is not necessary for the new owner to file a separate request to divide.

(iii) The Office will not divide a registered extension of protection unless the International Bureau notifies the Office that the international registration has been divided.

[73 FR 67774, Nov. 17, 2008, as amended at 74 FR 54910, Oct. 26, 2009]

§ 2.172 Surrender for cancellation.

Upon application by the owner, the Director may permit any registration to be surrendered for cancellation. The application for surrender must be signed by the owner of the registration, someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter. When a registration has more than one class, one or more entire class(es) but fewer than the total number of classes may be surrendered. Deletion of fewer than all the goods or services in a single class constitutes amendment of the registration as to that class (*see* § 2.173), not surrender.

[74 FR 54910, Oct. 26, 2009]

§ 2.173 Amendment of registration.

(a) *Form of amendment.* The owner of a registration may apply to amend a registration or to disclaim part of the mark in the registration. The owner must submit a written request specifying the amendment or disclaimer. If the registration is involved in an *inter partes* proceeding before the Trademark Trial and Appeal Board, the request

must be filed by appropriate motion to the Board.

(b) *Requirements for request.* A request for amendment or disclaimer must:

(1) Include the fee required by § 2.6;

(2) Be signed by the owner of the registration, someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner who meets the requirements of § 11.14, and verified or supported by a declaration under § 2.20; and

(3) If the amendment involves a change in the mark: a new specimen showing the mark as used on or in connection with the goods or services; an affidavit or declaration under § 2.20 stating that the specimen was in use in commerce at least as early as the filing date of the amendment; and a new drawing of the amended mark.

(c) *Registration must still contain registrable matter.* The registration as amended must still contain registrable matter, and the mark as amended must be registrable as a whole.

(d) *Amendment may not materially alter the mark.* An amendment or disclaimer must not materially alter the character of the mark.

(e) *Amendment of identification of goods.* No amendment in the identification of goods or services in a registration will be permitted except to restrict the identification or to change it in ways that would not require republication of the mark.

(f) *Conforming amendments may be required.* If the registration includes a disclaimer, description of the mark, or other miscellaneous statement, any request to amend the registration must include a request to make any necessary conforming amendments to the disclaimer, description, or other statement.

(g) *Elimination of disclaimer.* No amendment seeking the elimination of a disclaimer will be permitted, unless deletion of the disclaimed portion of the mark is also sought.

[73 FR 67774, Nov. 17, 2008]

§ 2.174 Correction of Office mistake.

Whenever Office records clearly disclose a material mistake in a registration, incurred through the fault of the

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Office, the Office will issue a certificate of correction stating the fact and nature of the mistake, signed by the Director or by an employee designated by the Director, without charge. Thereafter, the corrected certificate shall have the same effect as if it had been originally issued in the corrected form. In the discretion of the Director, the Office may issue a new certificate of registration without charge.

[73 FR 67774, Nov. 17, 2008]

§2.175 Correction of mistake by owner.

(a) Whenever a mistake has been made in a registration and a showing has been made that the mistake occurred in good faith through the fault of the owner, the Director may issue a certificate of correction. In the discretion of the Director, the Office may issue a new certificate upon payment of the required fee, provided that the correction does not involve such changes in the registration as to require republication of the mark.

(b) An application for such action must:

(1) Include the following:

(i) Specification of the mistake for which correction is sought;

(ii) Description of the manner in which it arose; and

(iii) A showing that it occurred in good faith;

(2) Be signed by the owner of the registration, someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner who meets the requirements of §11.14 of this chapter, and verified or include a declaration in accordance with §2.20; and

(3) Be accompanied by the required fee.

(Sec. 7, 60 Stat. 430, as amended; 15 U.S.C. 1057)

[30 FR 13193, Oct. 16, 1965, as amended at 31 FR 5262, Apr. 1, 1966; 69 FR 51364, Aug. 19, 2004; 73 FR 67774, Nov. 17, 2008]

§2.176 Consideration of above matters.

The matters in §§2.171 to 2.175 will be considered in the first instance by the Post Registration examiners, except for requests to amend registrations involved in *inter partes* proceedings before

the Trademark Trial and Appeal Board, as specified in §2.173(a), which shall be considered by the Board. If an action of the examiner is adverse, the owner of the registration may petition the Director to review the action under §2.146. If the owner does not respond to an adverse action of the examiner within six months of the date of issuance, the matter will be considered abandoned.

[73 FR 67774, Nov. 17, 2008]

TERM AND RENEWAL

AUTHORITY: Secs. 2.181 to 2.184 also issued under sec. 9, 60 Stat. 431; 15 U.S.C. 1059.

§2.181 Term of original registrations and renewals.

(a)(1) Subject to the provisions of section 8 of the Act requiring an affidavit or declaration of continued use or excusable nonuse, registrations issued or renewed prior to November 16, 1989, whether on the Principal Register or on the Supplemental Register, remain in force for twenty years from their date of issue or the date of renewal, and may be further renewed for periods of ten years, unless previously cancelled or surrendered.

(2) Subject to the provisions of section 8 of the Act requiring an affidavit or declaration of continued use or excusable nonuse, registrations issued or renewed on or after November 16, 1989, whether on the Principal Register or on the Supplemental Register, remain in force for ten years from their date of issue or the date of renewal, and may be further renewed for periods of ten years, unless previously cancelled or surrendered.

(b) Registrations issued under the Acts of 1905 and 1881 remain in force for their unexpired terms and may be renewed in the same manner as registrations under the Act of 1946.

(c) Registrations issued under the Act of 1920 cannot be renewed unless renewal is required to support foreign registrations and in such case may be renewed on the Supplemental Register in the same manner as registrations under the Act of 1946.

[30 FR 13193, Oct. 16, 1965, as amended at 54 FR 37597, Sept. 11, 1989; 64 FR 48926, Sept. 8, 1999]